

Snap! v. Cygnus X

Court: Higher Regional Court of Munich

Judgment announced on April 20, 1999

File number: 29 U 3513/96

Legal areas: UrhG, BGB, ZPO

Regulations:

UrhG § 24 Abs. 2

UrhG § 2 Abs. 2

UrhG § 23 S. 1

BGB § 823 Abs. 1

BGB § 249 S. 1

ZPO § 91 Abs. 1 S. 1

A metrically simple sequence of five tones moving in steps of seconds and thirds does not meet the requirements of § 24 Paragraph 2, Paragraph 2 Paragraph 2 UrhG for the degree of personal intellectual creation required for copyright protection.

Munich Higher Regional Court judgment May 20, 1999 - 29 U 3513/96 - 7 O 11371/95

Munich Regional Court I

the 29th civil senate of the Munich Higher Regional Court through the presiding judge Mangstl and the judges Wörle and Jackson in the written procedure according to the status of 04/20/1999 recognized for law:

Order:

I. On appeal by the plaintiff, the judgment of the Munich Regional Court I of 04/04/1996 - 7 O 11371/95 - is overturned.

II. The defendants are convicted of declaring their consent to the payment of the proceeds from the exploitation of the work "Green Grass Grows" to the plaintiffs vis-à-vis the Society for Musical Performance Rights - GEMA.

III. It is established that the defendants are obliged to compensate the plaintiffs for the damage they have suffered and will still suffer from the fact that GEMA, at the instigation of the defendant, postponed the offsetting of the proceeds from the exploitation of the work "Green Grass Grows" .

IV. The defendants bear the costs of the legal dispute.

V. The judgment is provisionally enforceable.

The defendants can avert the enforcement by providing security in the amount of DM 100,000, - if the plaintiffs do not provide security in the same amount prior to enforcement.

VI. The value of the defendant's complaint exceeds DM 60,000.

Reasons:

The parties are arguing over the question of whether a techno music work produced by plaintiffs 1 and 2 contains a melody taken from a work or represents a non-free adaptation of a work to which the defendants hold the rights of use.

The musicians Matthias H. and Ralf H. created the piece of music attributable to techno music with the title "Superstring" (hereinafter: S). It is a 7 minutes and 47 seconds long piece of music, which is not available in written form, but only on a sound carrier (including Appendix K 9, track no. 3) and which is generated exclusively by electronic means using computers. Two of the four parts of the piece contain a sequence of five tones which are repeated fourteen times in the first of the mentioned parts and twenty-two times in the second of the mentioned parts. Notated in 4/4 or 4/2 time, it has the following form:

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With regard to the details of the design of S, reference is made to the analysis of the piece of music in the reasons for the decision of the present judgment. - The defendants own the rights of use to S.

The first and second plaintiffs, who are also musicians, created the piece of music "Green Grass Grows" (hereinafter: G), which can also be assigned to techno music but is probably closer to pop. The 3 minute and 55 second long piece of music uses the voice of a singer; In addition, it is also completely electronic and is not available in writing, but only on a sound carrier (including Appendix K 11). The work can be divided into eight sections; in four of these sections the same tone sequence is used as in S; it is repeated a total of twenty times (four + two + four + ten times). With regard to the details, reference is also made to the detailed analysis in the reasons for the decision of the present judgment. - Both records have been released.

In a letter dated December 7, 1994 (Annex K 3), the defendants 1 and 3 asserted against the Society for Musical Performance Rights - GEMA - that G was "a plagiarism of the original" Superstring "" and a clearing block applied for for the proceeds from G GEMA complied with the letter dated 03/01/1995 (Appendix K 4).

The plaintiffs have asserted that G does not represent an adaptation of S because S was unknown to them and the singer Paula B. they engaged during the production of the piece in the months from March 1994 and beyond until December 1994. In addition, the tone sequence common to both pieces of music represents a monotonous, poor everyday cliché attributable to the musical common property, which does not meet the requirements of a protectable work according to § 2 UrhG.

The plaintiffs have requested

1. to condemn the defendants, to give GEMA approval for the payment of the royalties to the plaintiffs for the work "Green Grass Grows", and
2. Establish that the defendants are obliged to compensate the plaintiffs for the damage they have suffered in the past and will continue to incur in the future because GEMA, at the instigation of the defendant, has offset the royalties for the work "Green Grass Grows" "has reset.

The defendants have requested

reject the complaint.

You claimed that S was made at the end of 1993 and that it was first released as a phonogram on January 28, 1994. In June 1994 the first and second plaintiffs had borrowed a sound carrier with the title S from the manager of a third company and used it in the production of G. S and especially the disputed tone sequence are protected by copyright. The disputed tone sequence is a removed melody within the meaning of § 24 Abs. 2 UrhG, in addition G represents an unfree adaptation of S.

The plaintiffs opposed this. With regard to the customary use of the stylistic devices used in S (in a brief received after the hearing before the regional court) they referred to the sound carrier "The Universal Mind" (Appendix K 12) from 1992.

By judgment of 04/04/1996 the regional court dismissed the action. As a justification, it essentially stated that S and the tone sequence used in it still met the low requirements for the individual aesthetic content of a work within the meaning of Section 2 (2) UrhG. G represents an adaptation of S, § 23 S. 1 UrhG. At the same time, there is a case of the removal of a melody within the meaning of Section 24 (2) UrhG.

With their appeal against this judgment, the plaintiffs repeat and deepen their factual and legal submissions from the first instance.

The disputed tone sequence is not a personal intellectual creation within the meaning of Section 2 (2) UrhG. An arrangement of S is not G, since the commonalities of the pieces are exhausted in the use of the disputed tone sequence. In the alternative, they claim that there is a double creation. You request

overturn the judgment of the regional court and convict the defendants according to the applications made at first instance.

The defendants request

dismiss the appeal.

They too repeat and deepen their factual and legal presentation from the first instance. The regional court correctly affirmed the existence of both a melody extraction and an adaptation. A double creation would appear to be impossible, taking all circumstances into account.

Both parties have relied on the reports of experts employed by them, which are linked to one another in terms of content and build on one another. These are the reports of the expert P. dated November 7, 1994 (switched on by the defendants; Appendix K 5), Dr. E. of December 3, 1994 (switched on by the plaintiffs; Appendix K 6), F. dated April 28, 1995 (switched on by the defendants; Appendix B 3), Dr. E. of October 28, 1995 (Annex K 8), F. of December 29, 1995 and November 22, 1996 (Annex B 4 and B 5), Dr. E. of April 14, 1997 (Annex K 14), F. of May 02, 1997 (Annex B 9) and Dr. E. of June 26, 1998 (Annex K 16). Reference is made to the content of the reports.

According to the resolution of June 12, 1997, the Senate raised evidence by obtaining a written expert opinion, which was supplemented in writing by the expert in accordance with the Senate's request of November 10, 1997 and then explained orally on November 2, 1998. Reference is made to the expert opinion of October 28, 1997, the written supplement of November 16, 1997 and the minutes of March 12, 1998. In addition, evidence was collected in accordance with the decision of August 6, 1998 by questioning the witness Paula B. and in accordance with the decision of October 16, 1998 by questioning the witnesses Jose P. and Ismail M. in writing. On the minutes of November 19, 1998 and on the written statements of the witnesses from 26.11. and November 18, 1998 is referred to.

In addition, to supplement the facts, reference is made to the written submissions and the documents submitted by the parties.

The plaintiff's admissible appeal proves to be well founded. The existing dispute between the parties about when which of the two pieces of music was created, when S was published and whether S of the singer Paula B. in the creation of the vocal parts of G and the plaintiffs 1 and 2 in the production of G was known, ultimately no decision. In any case, G does not constitute an interference with the copyright of S.

Legally, it can be assumed that both the determination of the presence of a melody within the meaning of § 24 Paragraph 2 UrhG and the existence of an arrangement within the meaning of § 23 Paragraph 1 UrhG presuppose the determination that the removed melody or the edited work according to § 2 Para. 2 UrhG fulfills the requirements placed on a personal intellectual creation. In musical works, the creative peculiarity lies in their individual aesthetic expressiveness, their individual aesthetic content. "However, the demands placed on the individual aesthetic content must not be too high. It is sufficient that the composer's formative activity - as is regularly the case with hit music - shows only a low degree of creativity (cf. BGH in GRUR 1968, 321, 324 - hazelnut). The artistic value is not important. In copyright law it has long been recognized that there is the so-called little coin, that is, simple, but still barely protected intellectual creations. "Outside the scope of copyright protection are" purely craft activities that are not intellectual creation, and all elements in the public domain.; so the formal design elements, which are based on the teachings of harmony, rhythm and melody "(BGH GRUR 1981, 267/268" Dirlada "; cf. also BGH GRUR 1988, 810 " Fantasy "and 812" A bit of peace "and BGH GRUR 1991, 533, "Brown Girl II"). The assessment of the question of the replication first requires the examination of which objective characteristics determine the creative peculiarity of the work used as a template ... As a rule, all of the self-creative elements must be included Area to be assumed ... The decisive factor is ... the overall impression "(BGH GRUR, 533/534" Brown Girl II ").

Applying these standards shows that G does not interfere with S's copyright. There is no case of inadmissible melody extraction, § 24 Abs. 2 UrhG, since the disputed tone sequence used in both pieces does not meet the requirements of a personal intellectual creation according to § 2 Abs. 2 UrhG. There is also no processing within the meaning of Section 23 (2) UrhG, since, according to the overall impression, none of the features that justify the creative peculiarity of S recur in G.

1. There is no case of melody extraction within the meaning of § 24 Paragraph 2 UrhG, since the tone sequence common to both works in dispute is not subject to copyright protection, § 2 Paragraph 2 UrhG. The term "melody" in the sense of this provision is a legal term; In general, a melody is understood to be a self-contained and ordered sequence of notes that

gives the work its individual character. The boundary between very short sequences of notes, which are more likely to be described as motifs, is fluid; the delimitation does not need to be discussed here, since the precondition for protection is in any case a sufficient degree of personal intellectual creation (Loewenheim / Schricker, Copyright, 2nd edition, § 24, paras. 28, 29; § 2, para. 122).

The "starting material" for the musical design of parts 2 and 4 of S to be discussed here is the tone sequence AHCAG. It is a tone sequence that is part of the scales of several keys (C major, F major and parallel natural minor keys). It moves in steps of one second and third, first up and then down (more precisely: Expert opinion E., Appendix K 4, no. 2.1.). In this respect, it is a musical "everyday phrase", musical basic material that is accessible to anyone familiar with the simplest technical musical fundamentals. - The metrical form of the tone sequence in S is based on an irregular subdivision of the measure into three + three + two = eight units (report E., Appendix K 6, no. 2.2.). Correctly and without objection on the part of the defendant, E. points out, that this division is a well-known means "to obtain a swinging three-measure instead of the mechanical division of the even measure into half / quarter / eighth" (loc. cit.). The simplest, straightforward metric structure of the tone sequence AHCAG in two 4/2 or 4/4 bars is the division two + one + one + two + two:

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Significantly, this division appears in the 3rd, 4th and 5th of the Palestrina hymns used by E. (loc. Cit., No. 2.1.). The metric form in S deviates from this simplest metrical design of the tone sequence by "shifting" a quarter note from the first whole note to the second half note, which is then given the same length; there is also a "shift" of a quarter note from the fourth whole to the fifth whole note. This is a well-known manual process, as E. explains convincingly and unimpeachably; also the judgment of the Federal Court of Justice of February 3, 1988 (GRUR 1988, 810/ 811 li.Sp.), which deals with the question of the ability to protect a similar short motif under copyright law, mentions the decision of the appellate court that such rhythmic structures - prefixed accentuations - belong to the musical common property following the experts active in the proceedings at the time . Even in its concrete metric form, the disputed tone sequence can therefore not claim copyright protection.

The defendants claim that in S a sequence of 10 rather than 5 tones is used. They justify this on the one hand by pointing out that after every 10 notes a clearer caesura occurs in the musical sequence and that the musical form of the repetitions changes after an even number of bars. The Senate cannot join the former; the aural caesura is indistinguishable between the repetitions to be numbered with an odd number and after the repetitions to be numbered with an even number, as the Senate determined by listening to S repeatedly. The "overtone discoloration" still to be discussed are also of considerable importance in this context. It is a question of a continuous fade-out of the bass and increase of the treble and subsequent continuous decrease of the treble and increase of the bass back to the initial sound pattern, apparently produced with a tone control. This back and forth shifting of the sound pattern occurs during one pass, not during two passes of the disputed tone sequence and therefore makes it appear as a sequence of 5, not 10 tones. It is true that the musical structure only changes after an even number of repetitions. However, this only leads to a clear structure of the overall musical sequence and in this sense also to a combination of two or more repetitions of the disputed tone sequence into larger units. But that doesn't change anything that the resulting larger musical units appear as a repetition of the five-tone motif. It cannot be said that the above-mentioned summaries produce a melody of 10 tones.

The statement that the disputed tone sequence is not subject to copyright protection cannot be countered by referring to the basic motif from the first movement of Beethoven's 5th Symphony and similar motifs in other works. Because the copyright quality of the aforementioned symphony movement is not based on the underlying motif, but on the fact that this motif became the nucleus of an entire symphony movement in a completely new way. Nothing is said about the copyright protection of the isolated motif.

The question of the prior knowledge of the disputed tone sequence, discussed by the parties, is also irrelevant. If a melody is known in advance, it can be assumed that it is not protected. However, a lack of prior knowledge does not allow any conclusion as to whether a tone sequence can be protected. The fact that in the present case the plaintiffs could not prove that the isolated tone sequence AHCAG was known, but were able to show a number of works in which musical phrases begin with the disputed tone sequence, speaks not for, but rather against, the protectability of the disputed tone sequence. This suggests that the musical content of the phrase in question was assessed by the composer concerned as too "poor" to be able to make it the basis of a musical work in isolation.

With the assessment developed above, the Senate is at least in the result in agreement with the statements in the report of the court-appointed expert and the expert Dr. E. The Senate cannot agree with the contrary opinion of the experts called in by the defendants.

2. G also does not represent an adaptation of S in the sense of § 23 sentence 1 UrhG. To determine the elements that justify the peculiarity of S, a detailed analysis of this work is required. In the following presentation of the - undisputed - actual course of the play, the Senate relies on the content of the above-mentioned expert reports, which is consistent in this respect, and additionally on its own listening to the sound carrier. The parties approved the findings of the Senate communicated to them by resolution of March 12, 1998. The following times relate to the times saved on the CD, recording no.3, available as Appendix K 9.

0.00: Beginning of the first part of S with bass figures in fifths, to which beat figures (drums) are added.

0.32: In the treble, the following motif (motif A) appears in a guitar sound, which continues uninterrupted until the end of the first part over the continuing, slowly changing and finally completely ceasing bass and beatrhythms supplemented by less pronounced motifs in the middle voices is repeated:

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A more detailed description of this development is contained in the expert opinion E. dated June 26, 1998 (Annex K 16, p. 1/2).

3.06: Beginning of the second part. While motif A "continues" unchanged, in string sounds - reminiscent of string sounds, but their overtone character, however, as explained in more detail above, continually changing electronic sounds - the controversial tone sequence with an accompaniment in the lower tenth (slightly shifted from the previous measure; an exact Analysis of this is contained in the report E. dated June 26, 1998, p. 2/3) in the following form

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and is repeated once in the same form.

3.19: In addition to the previous two-part tone sequence (unanimous in the final tone), a further accompanying voice is added in the bass, which octaves the previous accompanying figure; the tone sequence now has the following sound form:

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In this form, too, the tone sequence is repeated once.

3.31: A bass rhythm in the following form is added to the unchanged three-part tone sequence (in the following notation, the two accompanying voices from illustration 3 are omitted for simplicity):

4. "Images not shown here"

In this form, too, the tone sequence is repeated once, with the bass rhythm being omitted in bar 2 of the repetition. The bass rhythm is also superimposed by a soft, syncopated drum rhythm.

3.44: The previously continued motif A is no longer available. - The disputed tone sequence is continued with the two accompanying voices (note image 3). The bass rhythm that starts again changes its shape as follows:

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In this form the tone sequence is repeated four times unchanged. The mentioned drum rhythm takes up the bass rhythm shown and runs parallel to it.

4.09: While the other voices (notes 3, 4 and 5) continue unchanged, a further accompanying voice in the oberterz is added to the tone sequence:

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The mentioned lower voices are omitted in this illustration for simplification. In this form, the tone sequence is repeated four times, with it being temporarily superimposed by additional electronic effects, in particular from 4.20 a rapid synthesizer figuration is added (more detailed description in the Edelmann report of June 26, 1998, p. 3/4).

4.36: Beginning of part 3 of the piece. In it the rhythmic material of the first part is taken up again in a slightly changed form and connected with motif A. This does not require a more detailed description here.

5.27: Beginning of the fourth part. In it, the disputed tone sequence initially appears in a different pitch and without the tone discoloration mentioned

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and is repeated three times in this form, overlaid by motif A and electronic effects.

5.52: The disputed tone sequence appears again in its original form (with tone discoloration); the previous figure (notation 7) now appears as its accompaniment in the subtext:

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In this form the sequence of notes is repeated seventeen times, the sound pattern being continuously varied by bass and rhythm figures and changing accompanying voices; however, the aforementioned sound colorations are used throughout. Finally, the accompaniment mentioned in the Oberterz (musical notation No. 6) is added again (6.56, 11th repetition). Changes also result from electronic effects that do not need to be represented in detail here.

7.47: End of the piece.

The analysis of G gives the following picture:

0.01: Beginning of the first part. The disputed tone sequence begins in the singing voice; it is accompanied by string sounds - without the overtone discoloration mentioned in S - in the subtext. A second singing voice goes with the strings. A notation gives the following picture (note display 9, lines 1 and 2):

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0.14: The line discussed above and used as a refrain in G is repeated. However, the bass rhythm on F and G noted in notation 9, line 3, which runs continuously in eighth notes.

0.27: Beginning of the second part. The bass figure (notation 9, line 3) continues unchanged, the other voices drop out. A drum movement occurs.

0.40: After 16 bars, further electronic effects are added.

0.53: The following motif is added to the continuing bass figure (Motif A.1):

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The string accompaniment is then added again as shown in the score 9, line 1, lower part.

1.06: Beginning of the third part. In the strings, the refrain sounds once in the following form, in which the tone sequence at the end of the refrain goes to D:

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Bass figures and drum accompaniment continue unchanged.

1.18: Beginning of the fourth part: In addition to the unchanged 8-bar bass figures, a singing verse (As you look inside / as you step inside) of 2×16 bars to a different melody can be heard. After the first 16 bars there is a string accompaniment - such as notation 9, line 1, lower part.

1.45: beginning of the fifth part. The melody of the chorus now sounds with unchanged bass figures in the strings. The singing voice sings the accompanying figure according to the score 9, line 1, lower part. This way the chorus will sound twice.

2.11: Beginning of the sixth part. Electronic effects are added to the unchanged bass figure.

2.24: beginning of the seventh part. In addition to the unchanged bass figures, the voices sing a further stanza ("No matter where you go") to a different melody. Motif A.1 is added after 16 bars.

2.50: Beginning of the eighth part: the figures continue unchanged until the end. The refrain melody sounds a total of five times in the strings in the form according to the notation 11. After the first pass, the singing voice comes in and performs the refrain in the form of the notation 9, line 1. - A "cumulative score" of the piece, which shows the rhythmic allocation of the musical elements, is contained in the Edelman report dated June 26, 1998 (Appendix K 16, p. 7, with explanation on pages 7/8).

3.55: end of the piece.

The above analysis of S shows without further ado that S in its overall form is a musical structure that is differentiated in many respects, whose work character in the sense of § 2 Para. 2 UrhG cannot be seriously questioned with regard to the overall structure. The same applies to the isolated parts 2 and 4 of the piece, which also in their overall shape easily meet the requirements to be made according to the aforementioned provision. In particular, the increase and enrichment of the musical material, which is evident from the above analysis and which is also imposed when listening, gives parts 2 and 4 a shape that can be addressed as a personal spiritual creation. The Senate does not overlook the fact that the music as a whole is produced with the help of a computer and that the individual tonal elements are largely "prefabricated" musical structures that are available for retrieval in the computer programs. In the selection of these elements and their application to the repetitive tone sequence, which remains unchanged in its metrical form, lies a personal intellectual achievement which satisfies the low requirements in the disputed area of music and which justifies copyright protection. The Senate therefore also assumes that the use of a large number of design elements that are probably not individually protectable as such - tone sequence, meter of the tone sequence, tempo, harmonization, rhythmization (especially through bass and drums), tonal design (instrumentation), repetitions and changes in the sound pattern during the repetitions (change in the timbre) - the ability to protect the disputed tone sequence is justified in the concrete, designed and repeated form. The opposite opinion of the judicial expert and the expert Dr. E. the Senate cannot join; they fail to recognize that only minor demands are made on the existence of a personal spiritual creation in the area at issue here.

A comparison of G with S shows, however, that G in no way - the defendants do not claim this either - is an adaptation of S in its entirety. S takes just under 8 minutes, G just under 4 minutes; S has four, G eight parts. There are no relevant similarities in the area of the large structure of the two musical works that is relevant here alone.

The parts 1, 3, 5 and 8 of G using the disputed tone sequence do not represent any processing of parts 2 or 4 of S. The same applies to the repetitions of the disputed tone sequence

occurring within G. The repetitions as such are indisputably a common and widely used stylistic device in the type of music at issue here. There are no legally relevant similarities in the arrangement of the parts of S on the one hand and G on the other. The defendants have not substantiated such similarities as substantiated beyond the agreement of the tone sequence AHCAG in the concrete metric form; there are only similarities in the very simple harmonic and rhythmic structure of both pieces. There are similarities in the key (C major / A minor), in time (4/4) and in tempo (approx. 140 beats / minute). However, these are the simplest technical means of creation that are available to anyone familiar with the basics of music. Any further matches are missing. For spontaneous listening, the tonal design of S is initially determined by the already discussed, consistently used overtone discoloration. These are missing in G; The sound pattern in G is primarily determined by the singing voice - which is made up of several voices through doubling. In his report of June 26, 1998 (Appendix K 16), the expert E. pointed out, without being contradicted, a number of differences in the design of S and G and the lack of similarities in the arrangement: In G, in particular, there is no clearly noticeable uncertainty in the bar system and the attempt to give the piece a "swinging" character, caused by the powerful beating in the bass drum and the associated rhythmic shifts. The - computer-generated - accompanying figures show certain similarities, but produce different effects as a result. The detailed analysis of both pieces and the notation of the essential development steps confirm this assessment. A comparative listening based on the overall impression confirms the result obtained from the analysis: apart from the same disputed tone sequence, both pieces have nothing in common that determines the design in the area relevant to copyright.

The result of the taking of evidence confirms the result obtained and facilitates its understanding. The Senate initially assumes that S was created at the end of 1993 and that by February 25, 1994 a total of 6,320 single records were delivered by S and at least to a large extent distributed through specialist circles and sales, so at least one a limited public had the opportunity to hear the piece. Based on the statements of witnesses M. and B., the Senate continues to assume that G was created between January and June 1994 in three phases:

- a) First of all, between January and March 1994, the backing track that appeared in G was created, which consisted of drum tracks and bass runs and thus provided the basic harmonic structure with the key frame for the intended improvisational performance of the singer.
- b) Around the end of March 1994 the voice sung by witness B. was added to the backing track and the singer doubled it by singing at different pitches.

The question of whether Ms. B. S knew does not require a decision. Nevertheless, it should be noted that the Senate considers it extremely unlikely that Ms. B. S had not heard before the aforementioned recording. It seems most likely that Ms. B. S had heard the piece but did not pay much attention to the piece, but was nevertheless "infected" with the disputed sequence of notes due to the high number of repetitions and unconsciously reproduced it during the vocal recordings. The Senate does not doubt, however, that Ms. B. added the disputed tone sequence to the backing track without being fixed to this tone sequence by the pre-existing recording parts of G. Her statement that she sang the voice without being determined by the backing track - improvised - seems credible.

- c) The arrangement was then completed - without Ms. B.'s involvement; In particular, the vocal melody sung by Ms. B. was reprogrammed with a synthesizer and the reprogramming

of the vocal melody was underlaid to support her (witness M.). The other design features and effects audible in the recording have also been added.

This history of genesis makes it understandable that although the disputed tone sequence was adopted identically from S to G by singer B., there are no other creative similarities between the two recordings that are relevant to copyright. Apparently, Ms. B. only resorted to S, if at all, to adopt the disputed tone sequence; In the previous production of the backing track and in the subsequent arrangement of the arrangement, however, no copyright-relevant recourse was made to S. There is therefore no copyright infringement.

The action is justified. According to Section 823 (1), Section 249 (1) of the German Civil Code (BGB), the defendants are obliged to release the proceeds from the exploitation of G that are blocked by GEMA at their request. This also applies to defendant 2), who did not initiate the block, but defends the block on the basis of her right of use. You are also obliged to inform the plaintiffs pursuant to Section 823 Paragraph 1 of the German Civil Code (BGB) to compensate for the damage caused by the blocking of the proceeds from the point of view of the interference in the established and exercised commercial enterprise. The defendant is responsible for the interference - albeit a minor one; If they had examined them in accordance with the strict due diligence requirements, they could have recognized that there was no interference with their rights.

The decision on costs follows from Section 91 (1) sentence 1 ZPO, the decision [missing text]